

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2  
3 In the Matter of

4 **SHEL-DON LEGARRETA, M.D.**

5 Holder of License No. 25100  
6 For the Practice of Allopathic Medicine  
In the State of Arizona.

Case No. MD-03-1119A

**CONSENT AGREEMENT FOR LETTER  
OF REPRIMAND AND PROBATION**

7  
8 **CONSENT AGREEMENT**

9 By mutual agreement and understanding, between the Arizona Medical Board  
10 ("Board") and Shel-Don Legarreta, M.D. ("Respondent"), the parties agreed to the  
11 following disposition of this matter.

12 1. Respondent acknowledges that he has read and understands this Consent  
13 Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent  
14 Agreement.") Respondent acknowledges that he understands he has the right to consult  
15 with legal counsel regarding this matter and has done so or chooses not to do so.

16 2. Respondent understands that by entering into this Consent Agreement he  
17 voluntarily relinquishes any rights to a hearing or judicial review in State or federal court on  
18 the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the  
19 Board, and waives any other cause of action related thereto or arising from said Consent  
20 Agreement.

21 3. Respondent acknowledges and understands that this Consent Agreement is  
22 not effective until approved by the Board and signed by its Executive Director.

23 4. All admissions made by Respondent are solely for final disposition of this  
24 matter and any subsequent related administrative proceedings or civil litigation involving  
25 the Board and Respondent. Therefore, said admissions by Respondent are not intended  
or made for any other use, such as in the context of another state or federal government

1 regulatory agency proceeding, civil or criminal court proceeding, in this State or any other  
2 state or federal court.

3 5. Respondent acknowledges and agrees that, although the Consent  
4 Agreement has not yet been accepted by the Board and issued by the Executive Director,  
5 Respondent may not revoke his acceptance of the Consent Agreement. Respondent may  
6 not make any modifications to the document. Any modifications to this original document  
7 are ineffective and void unless mutually approved by the parties.

8 6. Respondent further understands that this Consent Agreement and Order,  
9 once approved and signed is a public record that may be publicly disseminated as a  
10 formal action of the Board and will be reported to the National Practitioner's Data Bank  
11 and will be reported to the Arizona Medical Board's website.

12 7. If any part of the Consent Agreement is later declared void or otherwise  
13 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in  
14 force and effect.

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16 SHELDON LEGARRETA, M.D.

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Date June 7, 2005

## FINDINGS OF FACT

1  
2 1. The Board is the duly constituted authority for the regulation and control of  
3 the practice of allopathic medicine in the State of Arizona.

4 2. Respondent is the holder of License No. 25100 for the practice of allopathic  
5 medicine in the State of Arizona.

6 3. The Board initiated case number MD-03-1119A after receiving notice that  
7 Respondent was providing controlled substances and/or prescription only drugs to patients  
8 who were not established patients of Respondent's medical practice. The complaint  
9 alleged Respondent personally used steroids, other prescription drugs, controlled  
10 substances and street drugs. The complaint also alleged Respondent was not performing  
11 physical examinations or maintaining medical records on his patients.

12 4. During the course of the investigation Respondent admitted to providing  
13 prescriptions to friends without establishing a doctor-patient relationship and not  
14 maintaining medical records on those individuals. Respondent also admitted prescribing  
15 sleeping pills, Alprazolam for anxiety, and various antibiotics to his significant other without  
16 establishing a doctor-patient relationship and without maintaining a medical record.

17 5. Respondent agreed to undergo an inpatient evaluation for controlled  
18 substances. Respondent was diagnosed with amphetamine abuse and it was  
19 recommended that he enter an inpatient chemical dependency treatment program.

20 6. On March 10, 2004 Respondent signed an Interim Consent Agreement for  
21 Practice Restriction providing that he not practice medicine until further order of the Board.  
22 Respondent also underwent the recommended inpatient evaluation.

23 7. The facility that conducted the inpatient evaluation determined that  
24 Respondent was safe to return to practice provided that he participate in the Board's  
25

1 Monitored Aftercare Program ("MAP"). Respondent signed an Interim Consent Agreement  
2 for MAP on May 12, 2004 and has been compliant with the terms of his agreement.

3 8. The underlying investigation into the notification of Respondent's prescribing  
4 practices is complete and Respondent has agreed to enter a consent agreement for  
5 Probation.

#### 6 CONCLUSIONS OF LAW

7 1. The Arizona Medical Board possesses jurisdiction over the subject matter  
8 hereof and over Respondent.

9 2. The Board has received substantial evidence supporting the Findings of Fact  
10 described above and said findings constitute unprofessional conduct or other grounds for  
11 the Board to take disciplinary action.

12 3. The conduct and circumstances above constitute unprofessional conduct  
13 pursuant to A.R.S. § 32-1401(27)(e) - ("[f]ailing or refusing to maintain adequate records  
14 on a patient.)"

15 4. The conduct and circumstances above constitute unprofessional conduct  
16 pursuant to A.R.S. § 32-1401(27)(f) - ("[h]abitual intemperance in the use of alcohol or  
17 habitual substance abuse.)"

18 5. The conduct and circumstances above constitute unprofessional conduct  
19 pursuant to A.R.S. § 32-1401(27)(ss) - ("[p]rescribing, dispensing or furnishing a  
20 prescription medication or prescription-only device as defined in section 32-1901 to a  
21 person unless the licensee first conducts a physical examination of that person or has  
22 previously established a doctor-patient relationship.)"

1 **ORDER**

2 Based upon the foregoing Findings of Fact and Conclusions of Law,  
3 IT IS HEREBY ORDERED that:

4 1. Respondent is issued a Letter of Reprimand for prescribing prescription only  
5 medications without establishing a doctor-patient relationship; for failing to maintain  
6 adequate records; and for habitual intemperance.

7 2. Respondent placed on Probation for approximately five years<sup>1</sup> with the  
8 following terms and conditions:

9 a. Respondent shall submit quarterly declarations under penalty of perjury on  
10 forms provided by the Board, stating whether there has been compliance with all  
11 conditions of probation. The declarations shall be submitted on or before the 15th of  
12 March, June, September and December of each year, beginning on or before June 15,  
13 2005.

14 b. Respondent shall participate in the Board's Monitored Aftercare Program  
15 pursuant to the following:

16 1. **Participation.** Respondent shall promptly enroll in and participate in the  
17 Monitored Aftercare Program ("MAP") for the treatment and rehabilitation of physicians  
18 who are impaired by alcohol or drug abuse. Respondent shall remain in MAP for five  
19 years from the effective date of this Order. Respondent's participation in MAP may be  
20 unilaterally terminated with or without cause at the Board's discretion at any time after the  
21 issuance of this Order.

22 2. **Group Therapy.** Respondent shall attend MAP's group therapy sessions  
23 one time per week for the duration of this Order, unless excused by the MAP group  
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<sup>1</sup> Board staff is instructed to calculate the length of the Probationary term based on the physician's participation in MAP under the Interim Order.

1 therapist for good cause such as illness or vacation. Respondent shall instruct the MAP  
2 group therapist to release to the Board, upon its request, all records relating to  
3 Respondent's treatment, and to submit monthly reports to the Board regarding attendance  
4 and progress. The reports shall be submitted on or before the 10th day of each month.

5       **3.     12 Step or Self-Help Group Meetings.** Respondent shall attend ninety 12-  
6 step meetings or other self-help group meetings appropriate for substance abuse and  
7 approved by the Board, for a period of ninety days beginning not later than either (a) the  
8 first day following Respondent's discharge from chemical dependency treatment or (b) the  
9 date of this Order.

10       **4.** Following completion of the ninety meetings in ninety days, Respondent shall  
11 participate in a 12-step recovery program or other self-help program appropriate for  
12 substance abuse as recommended by the MAP group therapist and approved by the  
13 Board. Respondent shall attend a minimum of three 12-step or other self-help program  
14 meetings per week.

15       **5.     Board-Approved Primary Care Physician.** Respondent shall promptly  
16 obtain a primary care physician and shall submit the name of the physician to Board Staff  
17 in writing for approval. The Board-approved primary care physician ("PCP") shall be in  
18 charge of providing and coordinating Respondent's medical care and treatment. Except in  
19 an *Emergency*, Respondent shall obtain medical care and treatment only from the PCP  
20 and from health care providers to whom the PCP refers Respondent from time to time.  
21 Respondent shall request that the PCP document all referrals in the medical record.  
22 Respondent shall promptly inform the PCP of Respondent's rehabilitation efforts and  
23 provide a copy of this Order to that physician. Respondent shall also inform all other  
24 health care providers who provide medical care or treatment that Respondent is  
25 participating in the Board's rehabilitation program.

1       **6.     Medication.** Except in an *Emergency*, Respondent shall take no *Medication*  
2 unless the PCP or other health care provider to whom the PCP makes a referral  
3 *prescribes the Medication*. Respondent shall not self-prescribe any *Medication*.

4       **7.** If a controlled substance is prescribed, dispensed, or is administered to  
5 Respondent by any person other than PCP, Respondent shall notify the PCP in writing  
6 within 48 hours. The notification shall contain all information required for the medication  
7 log entry specified in paragraph 8. Respondent shall request that the notification be made  
8 a part of the medical record. This paragraph does not authorize Respondent to take any  
9 *Medication* other than in accordance with paragraph 6.

10       **8.     Medication Log.** Respondent shall maintain a current legible log of all  
11 *Medication* taken by or administered to Respondent, and shall make the log available to  
12 the Board and its Staff upon request. For *Medication* (other than controlled substances)  
13 taken on an on-going basis, Respondent may comply with this paragraph by logging the  
14 first and last administration of the *Medication* and all changes in dosage or frequency. The  
15 log, at a minimum, shall include the following:

- 16       a.     Name and dosage of *Medication* taken or administered;
- 17       b.     Date taken or administered;
- 18       c.     Name of prescribing or administering physician;
- 19       d.     Reason *Medication* was prescribed or administered.

20 This paragraph does not authorize Respondent to take any *Medication* other than in  
21 accordance with paragraph 6.

22       **9.     No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol or  
23 any food or other substance containing poppy seeds or alcohol.

24       **10.    Biological Fluid Collection.** During all times that Respondent is physically  
25 present in the State of Arizona and such other times as Board Staff may direct,

Respondent shall promptly comply with requests from Board Staff, the MAP group therapist, or the MAP Director to submit to witnessed biological fluid collection. If Respondent is directed to contact an automated telephone message system to determine when to provide a specimen, Respondent shall do so within the hours specified by Board Staff. For the purposes of this paragraph, in the case of an in-person request, "promptly comply" means "immediately". In the case of a telephonic request, "promptly comply" means that, except for good cause shown, Respondent shall appear and submit to specimen collection not later than two hours after telephonic notice to appear is given. The Board in its sole discretion shall determine good cause.

11. Respondent shall provide Board Staff in writing with one telephone number that shall be used to contact Respondent on a 24 hour per day/seven day per week basis to submit to biological fluid collection. For the purposes of this section, telephonic notice shall be deemed given at the time a message to appear is left at the contact telephone number provided by Respondent. Respondent authorizes any person or organization conducting tests on the collected samples to provide testing results to the Board and the MAP director.

12. Respondent shall cooperate with collection site personnel regarding biological fluid collection. Repeated complaints from collection site personnel regarding Respondent's lack of cooperation regarding collection may be grounds for termination from the program.

13. **Payment for Services.** Respondent shall pay for all costs, including personnel and contractor costs, associated with participating in the Monitored Aftercare Program at time service is rendered, or within 30 days of each invoice sent to Respondent.

14. **Examination.** Respondent shall submit to mental, physical, and medical competency examinations at such times and under such conditions as directed by the



1 Board to assist the Board in monitoring Respondent's ability to safely perform as a  
2 physician and Respondent's compliance with the terms of this Order.

3       **15. Treatment.** Respondent shall submit to all medical, substance abuse, and  
4 mental health care and treatment ordered by the Board, or recommended by the MAP  
5 Director.

6       **16. Obey All Laws.** Respondent shall obey all federal, state and local laws, and  
7 all rules governing the practice of medicine in the State of Arizona.

8       **17. Interviews.** Respondent shall appear in person before the Board and its  
9 Staff and committees for interviews upon request, upon reasonable notice.

10       **18. Address and Phone Changes, Notice.** Respondent shall immediately  
11 notify the Board in writing of any change in office or home addresses and telephone  
12 numbers. Respondent shall provide Board Staff at least three business days advance  
13 written notice of any plans to be away from office or home when such absence would  
14 prohibit Respondent from responding to an order to provide a biological fluid specimen or  
15 to communications from the Board. The notice shall state the reason for the intended  
16 absence from home or office, and shall provide a telephone number that may be used to  
17 contact Respondent.

18       **19. Relapse, Violation.** In the case of chemical dependency relapse by  
19 Respondent or Respondent's use of drugs or alcohol in violation of the Order, Respondent  
20 shall promptly enter into an Interim Consent Agreement that requires, among other things,  
21 that Respondent not practice medicine until such time as Respondent successfully  
22 completes an inpatient or residential treatment program for chemical dependency  
23 designated by the Board or Staff and obtains affirmative approval to return to the practice  
24 of medicine. Prior to approving Respondent's request to return to the practice of medicine,  
25 Respondent may be required to submit to witnessed biological fluid collection, undergo

1 any combination of physical examination, psychiatric or psychological evaluation and/or  
2 successfully pass the special purpose licensing examination or the Board may conduct  
3 interviews for the purpose of assisting it in determining Respondent's ability to safely  
4 return to the practice of medicine. **In no respect shall the terms of this paragraph**  
5 **restrict the Board's authority to initiate and take disciplinary action for violation of**  
6 **this Order.**

7 **20. Notice Requirements.**

8 (A) Respondent shall immediately provide a copy of this Order to all employers and  
9 all hospitals and free standing surgery centers at which Respondent currently has  
10 privileges. Within 30 days of the date of this Order, Respondent shall provide the Board  
11 with a signed statement of compliance with this notification requirement. Upon any  
12 change in employer or upon the granting of privileges at additional hospitals and free  
13 standing surgery centers, Respondent shall provide the employer, hospital or free standing  
14 surgery center with a copy of this Order. Within 30 days of a change in employer or upon  
15 the granting of privileges at additional hospitals and free standing surgery centers,  
16 Respondent shall provide the Board with a signed statement of compliance with this  
17 notification requirement.

18 (B) Respondent is further required to notify, in writing, all employers, hospitals and  
19 free standing surgery centers at which Respondent currently has or in the future gains  
20 employment or privileges, of a chemical dependency relapse, use of drugs or alcohol in  
21 violation of this Order and/or entry into a treatment program. Within seven days of any of  
22 these events Respondent shall provide the Board written confirmation of compliance with  
23 this notification requirement.

24 (C) Respondent shall immediately submit to the Board under penalty of perjury, on  
25 a form provided by the Board, the name(s) and address(es) of all employers and all

1 hospitals and free standing surgery centers at which Respondent currently holds privileges  
2 to practice. Respondent is further required to, under penalty of perjury, on a form provided  
3 by the Board, immediately notify the Board of any changes in employment and of any  
4 hospitals and free standing surgery centers at which Respondent gains privileges after the  
5 effective date of this Order.

6       **21. Public Record.** This Order is a public record.

7       **22. Out-of State.** In the event Respondent resides or practices as a physician in  
8 a state other than Arizona, Respondent shall participate in the rehabilitation program  
9 sponsored by that state's medical licensing authority or medical society. Respondent shall  
10 cause the other state's program to provide written reports to the Board regarding  
11 Respondent's attendance, participation, and monitoring. The reports shall be due on or  
12 before the 15th day of March and September of each year, until the Board terminates this  
13 requirement in writing.

14       **23.** Respondent shall immediately obtain a treating psychiatrist/psychotherapist  
15 approved by Board Staff and shall remain in treatment with the  
16 psychiatrist/psychotherapist for a minimum of 12 months. Respondent shall comply with  
17 the psychiatrist's/psychotherapist's recommendations for continuing care and treatment.  
18 Respondent shall instruct the psychiatrist/psychotherapist to submit quarterly written  
19 reports to the Board regarding diagnosis, prognosis, and recommendations for continuing  
20 care and treatment. The reports must be submitted on or before the 15<sup>th</sup> day of March,  
21 June, September and December of each year. After 12 months, Respondent may submit  
22 a request to the Executive Director requesting termination of the requirement that  
23 Respondent remain in treatment with a psychiatrist/psychotherapist. The decision to  
24 terminate will be based, in part, upon the treating psychiatrist's/psychotherapist's  
25 recommendation for continued care and treatment.

24. This Order supersedes all previous consent agreements and stipulations between the Board and Respondent.

25. The Board retains jurisdiction and may initiate new action based upon any violation of this Order.

## DEFINITIONS

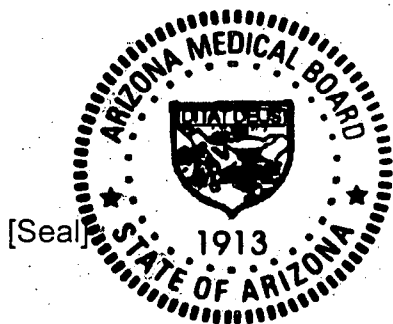
**"Medication"** means "prescription-only drug, controlled substance, and over-the-counter preparation, other than plain aspirin and plain acetaminophen."

**"Emergency"** means "a serious accident or sudden illness that, if not treated immediately, may result in a long-term medical problem or loss of life."

This Order is the final disposition of case number MD-03-1119A.

DATED this 22<sup>nd</sup> day of July, 2005.

ARIZONA MEDICAL BOARD



By

TIMOTHY C. MILLER, J.D.  
Executive Director

ORIGINAL of the foregoing filed this  
22<sup>nd</sup> day of June, 2005 with:

The Arizona Medical Board  
9545 East Doubletree Ranch Road  
Scottsdale, Arizona 85258

1 Executed copy of the foregoing  
mailed this  
2 22<sup>nd</sup> day of June, 2005, to:

3 Mr. Donald H. Smith  
4 Snell & Wilmer, L.L.P.  
400 E. Van Buren Street  
5 Phoenix, AZ 85004-2223

6 Executed copy of the foregoing  
mailed this  
7 22<sup>nd</sup> day of June, 2005, to:

8 Shel-Don Legarreta, M.D.  
Address of Record.

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Quality Assurance  
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